

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
MONTGOMERY DIVISION**

DARREN ANDERSON, et al.,

Plaintiffs,

v.

WAYNE FARMS, LLC,

Defendant.

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**CIVIL ACTION NO.
2:06-cv-00951-MEF-DRB**

**CONSENT MOTION FOR EXTENSION OF TIME FOR
PLAINTIFFS' TO RESPOND TO DEFENDANT'S MOTION TO
STAY PROCEEDINGS OR ALTERNATIVE MOTION TO APPLY
THE FIRST-FILED RULE**

Plaintiffs with the consent of Defendant in the above captioned case, and through its undersigned counsel, moves this Honorable Court for an extension of 10 days in which to file its response to Defendant's Motion to Stay, and alternatively, Defendant's Motion to Apply the First-Filed Rule.

1. Defendant filed the Motion to Stay on January 16, 2007.
2. Plaintiffs' response is due to be filed no later than January 30, 2007.
3. Counsel for Defendants has consented to Plaintiffs' request for a 10 day extension subject to the approval of this Court.

4. Should the requested extension be granted, the response of Plaintiffs will be due to be filed on or before February 13, 2007.
5. Plaintiffs are currently discussing with Plaintiffs' counsel in *Agee v. Wayne Farms LLC*, Civil Action 2:06-CV-268-KS-MTP, the transfer of *Agee* plaintiffs employed at Defendant's Albertville Alabama facility, made subject of Defendant's Motion to Stay, to the above styled case.
6. Plaintiffs believe the issues brought forth in Defendant's Motion to Stay will be resolved before expiration of the 10 day extension thereby rendering the alleged need for the stay moot.
7. Furthermore, national collective actions such as *Fox v. TysonFoods, Inc.*, No. CV-99-BE-1612-M and *Anderson v. Cagles Inc.*, No. 1:00-CV-166(WLS), which are similar to *Agee*, have been unsuccessful. These cases were unsuccessfully certified mostly due to the fact that the similarly situated requirement could not be satisfied on a national basis because each plant had its own management, some plants were covered under a collective bargaining agreement where other plants were not, and each plant had its own payroll practices.

Plaintiffs did not attempt to assert claims on a national basis but instead appropriately asserted their claims against their individual work location therefore there is no reason for these proceedings not to continue uninterrupted. This complies with the spirit of the collective action as set forth in 29 U.S.C. 216(b).

8. This action was filed on October 20, 2006.
9. *Agee v. Wayne Farms, LLC, Et Al.* was filed on December 13, 2006
10. Because this action is a collective action brought pursuant to the Fair Labor Standards Act, 29 U.S.C. §201 et seq., the *Agee* action is not likely to be certified on a national basis, Plaintiffs' counsel is likely to resolve the issues made subject of Defendant's Motion to Stay, and Defendants have consented to the requested 10 day extension, the granting of this extension should not unduly delay these proceedings.

WHEREFORE, premises considered, Plaintiffs request the Honorable Court Grant this Motion and allow it until February 13, 2007 to file its response to Defendant's Motion to Stay.

Dated: January 24, 2007

Respectfully submitted,

THE COCHRAN FIRM, P.C.

/s/ Robert J. Camp

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CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2007, I electronically filed the foregoing Motion with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to:

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